

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JUNE 14, 2004
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Mayor Barovsky called the meeting to order at 6:34 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Sharon Barovsky, Mayor Pro Tem Andrew Stern; Councilmembers Jeffrey Jennings and Ken Kearsley.

ABSENT: Councilmember Pamela Conley Ulich.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Gregg Kovacevich, Assistant City Attorney; Julia James, Administrative Services Director; Victor Peterson, Environmental & Community Development Director/Building Official; Craig George, Environmental and Building Safety Manager/Deputy Building Official; Paul Adams, Parks and Recreation Director; Lt. Gloria Gressman, Sheriff's Department; and Lisa Pope, City Clerk.

FLAG SALUTE

Dick Van Dyke led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin report that the Council met in closed session at 5:30 p.m. to discuss the following items:

Conference with Legal Counsel - Existing litigation per Government Code Section 54956.9 (a):

1. Lou Adler v. City of Malibu
Los Angeles County Superior Court Case No. BS087518

2. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355 (on appeal)
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):
 - a. Rick Appel v. California Coastal Commission
Los Angeles County Superior Court Case No. SC074658
 - b. Ralph Herzig v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011382
 - c. Primrose Company v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011386
 - d. Riverview Farm Associates v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011383
 - e. Brian Sweeney v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011387
 - f. Trancas-PCH v. California Coastal Commission
Los Angeles County Superior Court Case No. SC074640
 - g. Tuna Ridge v. California Coastal Commission
Los Angeles County Superior Court Case No. SC011381
 - h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
6. Colony Beach Preservation Association v. California Coastal Commission
Los Angeles County Superior Court Case No. BS083683
7. Fisher v. City of Malibu
Los Angeles County Superior Court Case No. SS012372
8. Latigo Canyon Preservation Association v. City of Malibu; Rubens, et al
Los Angeles Superior Court Case No. BS089812
9. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Amicus)
10. Sierra Club v. City of Malibu (Forge Lodge)
Los Angeles County Superior Court Case No. BS083573
11. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
12. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
13. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585 (on appeal)

14. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794 (on appeal)
15. Trancas Property Owners Association v. City of Malibu
Los Angeles County Superior Court Case No. BS084112
16. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. CV00-10255-FMC(JWJx)
17. Visher v. City of Malibu
Los Angeles County Superior Court Case No. SC078703

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

18. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
Under Negotiation: Price and terms of payment
19. Property APN: 4458-020-007 and 4458-020-016 commonly known as the Chili Cook-off Parcels
City Negotiator: City Manager Lichtig / City Attorney Hogin
Property Negotiator: Malibu Bay Company
Under Negotiation: Price and terms of payment

Personnel matters pursuant to Government Code Section 54957:

20. Public Employee Performance Evaluation
Title: City Treasurer

City Attorney Hogin reported that the Council discussed some, but not all, of the items listed on the Closed Session Agenda due to limited time and took no reportable action.

APPROVAL OF AGENDA

City Manager Lichtig indicated that staff was requesting Item No. 3.B.3. be continued.

MOTION Mayor Pro Tem Stern moved and Councilmember Kearsley seconded a motion to approve the agenda with Item No. 3.B.3. continued. The motion carried 4-0, Councilmember Conley Ulich absent.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was properly posted on June 4, 2004, with the amended agenda posted on June 11, 2004.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation of City Tile to Former Planning Commissioner David Fox

Mayor Pro Tem Stern presented a City tile to Former Planning Commissioner David Fox. Mr. Fox thanked the Council for honoring him.

ITEM 2A PUBLIC COMMENTS

Larry Gray, representing the Trails Committee, provided an update to the Council on the activities of the committee. He requested that Councilmember Conley Ulich make her appointments to the committee so that the committee could establish working groups.

Annie Ellis, Malibu Board Riders Club, discussed the “Day at the Beach” where up to 300 campers from Camp Ronald McDonald spend a day at Leo Carrillo Beach. She discussed the annual surf contest, “The Call to the Wall,” to raise funds for the “Day at the Beach” event. She discussed parking restrictions for the event and requested that the Council assist in encouraging Los Angeles County to allow overnight parking for “The Call to the Wall.” She requested the Council award Dave Sweet a City proclamation on July 24, 2004 at Surfrider Beach.

John Mazza discussed the negotiations with Mr. Perencchio regarding 10 acres of wetlands.

Jonathan Bishop, Interim Executive Officer at the Los Angeles Regional Water Quality Control Board, provided an update on permitting of septic systems for commercial and multi-family developments.

Rich Davis, Malibu 2020 Vision Team, provided an update on the activities of the committee.

ITEM 2B COUNCIL COMMENTS

Mayor Pro Tem Stern indicated that he had spoken with Kerry Gottlieb at Los Angeles County Beaches and Harbors who had indicated the parking restriction was now being enforced because they had the ability to now enforce it.

In response to Mayor Pro Tem Stern, William Buckley, “The Call to the Wall” competition director, explained that they were allowed to have six security personnel at the event overnight. He stated that the additional parking was necessary for judges and other event coordinators.

Councilmember Kearsley asked if the decision could be appealed. Mayor Pro Tem Stern stated that it could not be appealed.

Mayor Pro Tem Stern stated that he received an anonymous Code Enforcement complaint which he would forward to the City Manager. He congratulated soon-to-be graduates. He commended the "42nd Street" production. He discussed the water supply in the Trancas Highlands area. He encouraged residents to conserve water.

Councilmember Jennings discussed his recent attendance at the Santa Monica Bay Restoration Commission meeting. He discussed the Zoning Ordinance Revisions and Code Enforcement Subcommittee's (ZORACES) continuing review of the development process. He discussed the open space conference in Agoura Hills at which ideas regarding acquisition of open space were discussed. He discussed the ceremony celebrating acquisition of furniture at the Adamson House. He discussed the Eagle Scouts recently awarded Eagle Scout badges. He congratulated those participating in the "42nd Street" performance. He discussed his meeting with California State Parks regarding issues at Bluffs Park. He thanked Mr. Perencchio for his land donation.

Councilmember Kearsley commended Eagle Scout Josh Ehrke. He congratulated the 2020 Committee for their work. He thanked the Board Riders for their efforts. He discussed anonymous Code Enforcement complaints.

Mayor Barovsky announced the City's Yard Waste event on June 18 and June 19, 2004. She stated the City owes Jerry Perencchio a debt of gratitude for his land donation. She urged the Citizens for Equitable Property Taxation to follow the City's Code Enforcement process.

ITEM 3 CONSENT CALENDAR

Item 3.B.2. was pulled by the public.

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items
 - 1. Membership Guidelines for the Wastewater Advisory Committee (WACo) and Council Appointments
Staff recommendation: 1) Adopt Resolution No. 04-35 establishing membership guidelines for the Wastewater Advisory Committee for the City of Malibu and repealing Resolution No.

04-24; and 2) Appoint the following eight members to the Wastewater Advisory Committee: Steven Braband, Judy Decker, Norman R. Haynie, Dixie Moore, Dusty Peak, Richard Sherman, Barton Slutske and John N. Yaroslaski.

B. New Items

1. Waive further reading
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
3. Initiation of Proceeding to Vacate Portion of Public Street Easement on Broad Beach Road
Staff recommendation: Adopt Resolution No. 04-34 to initiate proceedings to vacate a portion of the easement on Broad Beach Road near the intersection of Pacific Coast Highway and Broad Beach Road (east end) and set the date, time and place for the required Public Hearing as July 12, 2004, 6:30 p.m., in the Council Chambers at 23815 Stuart Ranch Road.
4. California Department of Fish and Game 2004 Fisheries Restoration Grant Application
Staff recommendation: 1) Adopt Resolution No. 04-28 approving the application for grant funds from the California Department of Fish and Game 2004 Fisheries Restoration Grant Program for removal of a barrier to fish passage in Solstice Creek at the Corral Canyon Road Bridge; and 2) authorize staff to apply for \$160,000 for pre-construction funding from other sources.
5. Agreement for Professional Consulting Services for Engineering Geology, Geotechnical Engineering, Coastal Engineering and Maintenance of Assessment Districts
Staff Recommendation: 1) Award a consultant contract to Fugro West Inc. to provide consulting services for geological engineering, geotechnical engineering, and coastal engineering; 2) Award a consultant contract to Fugro West Inc. to provide consulting services for maintenance of the assessment districts; 3) Award an alternate consultant contract to Geolabs- Westlake Village to provide consulting services for geological engineering, geotechnical engineering, and coastal engineering; and 4) Authorize the City Manager to execute three professional services agreements with Fugro West, Inc and Geolabs- Westlake Village to provide the above consulting services.
6. Approval of Minutes
Staff recommendation: Approve City Council minutes for the April 12, 2004 Regular City Council meeting and the April 21, 2004 Quarterly City Council Meeting.

MOTION Councilmember Kearsley moved and Mayor Pro Tem Stern seconded a motion to approve the Consent Calendar with the exception of Item No. 3.B.2. and with Item No. 3.B.3 continued. The motion carried 4-0, Councilmember Conley Ulich absent.

The following item was pulled from the Consent Calendar for individual consideration:

3.B.2. Approve Warrants

Staff recommendation: Allow and approve warrant demand numbers 24962 through 25151 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 310 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,572,767.03. ADP payroll voucher numbers 10218434 – 10218451 were issued in the amount of \$114,648.42.

In response to Ryan Embree, City Manager Lichtig stated that the payment in question was for the replacement of skate ramps.

MOTION Mayor Pro Tem Stern moved and Councilmember Jennings seconded a motion to allow and approve warrant demand numbers 24962 through 25151 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 310 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,572,767.03. ADP payroll voucher numbers 10218434 through 10218451 were issued in the amount of \$114,648.42. The motion carried 4-0, Councilmember Conley Ulich absent.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Proposed Budget and Appropriations Limit for FY 2004-2005

Staff recommendation: 1) Consider request for additional full-time Recreation Coordinator position for the Senior Center and provide direction; 2) Adopt Resolution No. 04-26 adopting the Annual Budget for FY 2004-05 including the General Fund grants; and 3) Approve City Council Major Goals.

Lotte Cherin deferred her time to Ruth White.

Ruth White discussed Mayor Barovsky's donation of a piano. Mayor Barovsky clarified she had donated a piano to the senior center. Ms. White discussed funding for arts throughout the state, country and nation. She discussed the 42nd Street performance and indicated it was fantastic. She requested staff assistance for an arts commission.

Administrative Services Director James presented the staff report.

Councilmember Kearsley indicated support for adding a Recreation Coordinator to the Parks and Recreation Department.

Mayor Barovsky asked if the current Recreation Coordinator would be leaving the senior center. Parks and Recreation Director Adams explained the proposal to modify service to the senior center. Mayor Barovsky stated she could support the additional position, but did not want that position to be tied entirely to the senior center. She recommended that the City Treasurer's salary be reduced to \$20,000 annually, to serve on a project-by-project basis.

MOTION Councilmember Kearsley moved and Mayor Pro Tem Stern seconded a motion to: 1) Consider request for additional full-time Recreation Coordinator position for the Senior Center and provide direction; 2) Adopt Resolution No. 04-26 adopting the Annual Budget for FY 2004-05 including the General Fund grants and reducing the City Treasurer's annual salary to \$20,000; and 3) Approve City Council Major Goals. The motion carried 4-0, Councilmember Conley Ulich absent.

- B. Mitigated Negative Declaration No. 01-007 / Plot Plan Review No. 00-094 / Variance No. 00-036 - A Request to Allow Grading in Excess of 1,000 Cubic Yards, Retaining Walls Exceeding Six Feet High and Construction on Slopes Greater than 2 ½:1 In Conjunction with the Construction of a 20-foot Wide, 1,669- foot Long, Private Access Road Located Northeast of Sweetwater Mesa Road. Applicant: Schmitz and Associates; Settlement: Brian Sweeney, Mika Heights, LLC, Jean Ross, LLC, and Catherine Isabel, LLC; Location: Sweetwater Mesa Road (Continued from May 24, 2004)

Staff recommendation: Adopt Resolution No. 04-29 adopting Mitigated Negative Declaration 01-007 and approving Plot Plan Review No. 00-094 and Variance No. 00-036 for the construction of a 20-foot wide, 1,669-foot long, private access road located northeast of Sweetwater Mesa Road and rescinding City Council Resolution No. 02-05, as adopted on July 22, 2002.

Senior Planner Albright presented the staff report. He stated that staff would like to incorporate the previously prepared administrative record into the record for the hearing. He indicated a correction to the resolution on page 7 to reflect the project plans submitted on May 11, 2001.

Mayor Barovsky asked the alternative to approving the access road. City Attorney Hogin provided an overview of the project. She explained that staff was recommending approval conditioned on the vacant parcel

obtaining approval for homes. She further explained that, in the alternative, the City Council could deny the variance without prejudice.

In response to Councilmember Kearsley, City Attorney Hogin stated that there was currently city approval of a pilot road. Senior Planner Albright explained that the City approved a pilot road involving 980 yards of grading. He stated that there was an existing "trail" that generally followed the easement. Councilmember Kearsley reiterated that the road had not yet been built. In response to Councilmember Kearsley, City Attorney Hogin explained that a variance allowed a person to do something that others would not be allowed to do. She stated that the question was whether there was enough evidence to establish a need for a 20-foot wide road.

Mike Sidley addressed the Council against adoption of the proposed variance. He urged the Council to deny the variance by denying the negative declaration and requiring the applicant to conduct a full environmental impact report (EIR). He requested that the City obtain information from the other property owners to ascertain whether the applicant had other available access. He stated there was no compelling evidence to approve the road.

Geoffrey Gee, President of Serra Canyon Property Homeowners Association, expressed concern regarding people coming down Piuma Road over Serra Road. He recommended a full-scale EIR. He requested the Council deny the variance. He suggested, if approved, that the road be required to be extinguished if access to the north was established. He requested the matter be delayed to allow additional research.

Norm Haynie stated that he would not wager an opinion about the project; therefore, he would not indicate support or opposition. He discussed the visual impact created by retaining walls. He suggested, if approved, a color requirement be placed on the construction of retaining walls.

Robert Weingarton deferred his time to Jim Smith.

Michael Dresher deferred his time to Jim Smith.

Errol Ginsberg deferred his time to Jim Smith.

Ozzie Silna deferred his time to Jim Smith.

Jim Smith stated that the project was a County project and should have a County road. He provided a color aerial photograph of the proposed road

and perfected easements. He stated Mr. Sweeney could not obtain a building permit without water service. He stated inaccurate information was presented regarding the temporary road. He stated that the road was usable and was continually used.

Patt Healy, Malibu Coalition for Slow Growth, stated that the condition suggested by staff to require approval of homes did not protect the City because the homes were already permitted. She requested the Council defer the hearing to allow the Water District to make its determination on whether or not service would be provided. She reviewed General Plan policies that prevent the Council from making the necessary findings to approve the project.

Bill Carson expressed concern regarding the notice for the hearing. He stated that the potential traffic coming from Costa Del Sol and Piuma Road needed to be evaluated. He recommended deferring the decision until Mr. Sweeney had a determination on whether he could get water to the site.

Klaus Radtke stated that the project would eventually require strategic and public safety planning and that a fire access road was necessary. He stated a focused EIR was necessary.

Stan Lamport, representing the applicant, stated that the record before the Council was essentially the same record that was before the trial court. He stated that there was no basis for concluding that the property had access to the north. He stated that the Court reviewed the record and forcefully decided that there was no basis for denying access.

Thomas Rainey deferred his time to Mr. Schmitz.

Carlos Santos deferred his time to Mr. Schmitz.

Don Schmitz, representing the applicant, stated that the comments had been heard before and that the project had been deliberated on for over four years. He stated that the applicant was requesting a 20-foot wide fire road. He stated that an EIR was not warranted. He stated that the applicant would accept a condition requiring earth tone retaining walls. He discussed the approvals already received by the applicant. He stated that the road was not suitable for a subdivision. He discussed incorrect statements made by those in opposition to the proposed road. He stated that denial of the variance without prejudice was still a denial and would prevent the applicant from proceeding to the Coastal Commission. He stated that the applicant had a reasonable right to use the property.

Isabel Fox deferred her time to Jim Smith.

Jim Smith indicated support for subpoenaing the property owners to determine what easements existed. He stated it was a County road that should be serving a County project.

Fred Gaines, representing Serra Canyon Property Owners Association, indicated support for denying without prejudice. He stated that there could be no taking if the applicant did not have permits. He discussed the California Environmental Quality Act (CEQA) requirements. He stated that illegal project splitting was occurring. He stated that an EIR was necessary to determine the impacts. He recommended that the Council follow the alternative outlined by staff, to deny without prejudice. He recommended the following additional conditions if the Council decided to approve the road:

1. If access from the north of the applicant's property was granted, the road easement should be revoked; and
2. That the applicant's property be restricted to five single-family developments.

John Mazza suggested that the Council limit the number of houses and cancel the variance if access is obtained from the north. He suggested that staff review slopes to determine if there were slopes in excess of 1:1. He urged the Council to deny the project or continue the matter if additional information was necessary. He stated that the concern was the traffic impact to Serra Retreat.

Beth Palmer, representing the applicant, stated that revocation of the permit, if access from the north is obtained, was already included in the conditions of approval contained in the resolution. She stated that the access issue was the only hold up.

Mayor Pro Tem Stern stated that there was no previous mention of houses being approved prior to the hearing. He stated that it made no sense to approve a road prior to approval of a structure. He stated that, on the evidence before the Council, he could not make the findings to grant a variance.

In response to Councilmember Jennings, Senior Planner Albright indicated that he had not seen approvals in concept for structures. Councilmember Jennings stated that the County's approvals could have

been conditioned on anything and that they should be reviewed prior to the Council making a decision. He asked how the variance could be revoked and the natural state returned. Senior Planner Albright stated that variances were typically based on unique property circumstances and typically ran with the land and not necessarily a specific project. Councilmember Jennings asked if it would be possible for the Council to condition the variance to be revoked in the event access to the north was obtained and requiring the applicant to post a bond to remove the retaining walls and restore the property to its natural state. City Attorney Hogin stated that it would be necessary to calculate the cost of such a condition.

Councilmember Jennings stated that he had a telephone conversation with Mike Sidley. He stated that he received a telephone message from Jim Smith regarding a potential water line easement to the north. He stated that he wanted to ensure that all interested parties were notified.

Mayor Pro Tem Stern and Mayor Barovsky stated that they received telephone calls from Jim Smith and responded that they did not do ex parte communications.

Mayor Barovsky and Mayor Pro Tem Stern stated that they received emails from Patt Healy.

Councilmember Kearsley stated that he discussed the idea of a water easement with Jim Smith. He stated he received an email from Patt Healy and a call from Patt Healy that he was unable to answer.

Mayor Barovsky indicated support for denying the variance without prejudice. She requested additional information on the approvals in concept.

Councilmember Kearsley indicated disagreement with staff that the strict application of the zoning ordinance would deprive the properties of privileges enjoyed by others. He further indicated disagreement that the variance would not grant a special privilege to the applicant or property owner. He indicated support for denying without prejudice.

City Attorney Hogin suggested continuing the matter to the next meeting because staff was not aware of pending approvals. In response to Mayor Barovsky, City Attorney Hogin stated that the hearing should be continued open to allow for public comment. She stated that the matter could be continued to June 28, 2004.

Councilmember Kearsley questioned the notice for the hearing. Senior Planner Albright stated that the required newspaper noticing was published and that properties within a 500-foot radius were noticed.

Councilmember Jennings explained that interested persons could request notice on specific matters.

In response to Mayor Pro Tem Stern, City Attorney Hogin stated that if the application was denied without prejudice and if reapplication were sought, they would have to start from the beginning. She discussed the testimony regarding approvals in concept.

MOTION Mayor Barovsky moved and Councilmember Kearsley seconded a motion to continue the item to June 28, 2004. The motion carried 4-0, Councilmember Conley Ulich absent.

RECESS Mayor Barovsky called a recess at 8:50 p.m. The meeting reconvened at 9:00 p.m. with Councilmember Conley Ulich absent.

- C. Zoning Text Amendment No. 00-003 / Negative Declaration No. 00-005 – An Amendment to Title 17 (Zoning) of Malibu Municipal Code Section 17.40.040(A)(13)(c) (Basements) and Section 17.02.060 (Definitions), and Other Sections as Applicable to Revise Development Standards and Definitions Related to Basements

Staff Recommendation: Continue the public hearing to the regularly scheduled City Council meeting of July 12, 2004.

MOTION Councilmember Kearsley moved and Councilmember Stern seconded a motion to continue the item to July 12, 2004. The motion carried 4-0, Councilmember Conley Ulich absent.

ITEM 5 OLD BUSINESS

- A. Council Presentation of the “Draft Final Report – Risk Assessment of Decentralized Wastewater Treatment Systems in High Priority Areas in the City of Malibu”, Proposition 12 Grant

Staff recommendation: Receive and file “Draft Final Report – Risk Assessment of Decentralized Wastewater Treatment Systems in High Priority Areas in the City of Malibu” and provide comments on the report and action items.

Bruce Douglas, Questa Engineering, provided a brief overview of the Draft Final Report on “Risk Assessment of Decentralized Wastewater

Treatment Systems in High Priority Areas in the City of Malibu, California.”

In response to Councilmember Jennings, Mr. Douglas explained the impact on water quality by removing nitrogen. Councilmember Jennings asked if the Total Maximum Daily Loads (TMDL) requirement measured the result at the system or at the receiving water. Mr. Douglas stated the results were taken at the receiving water.

In response to Mayor Barovsky, Mr. Douglas explained nitrogen loading in the area and indicated that the study would provide a specific basis to refine the objective to provide the decrease in loading from onsite wastewater treatment systems that is achievable. Mayor Barovsky asked why the water was not tested at source. Mr. Douglas explained that the Clean Water Act required testing to be done in the Lagoon and Creek.

Councilmember Kearsley asked about groundwater vulnerability to bacteria. He asked if the bacteria were human or animal bacteria. Mr. Douglas indicated that it was animal bacteria. He stated that there were elevated bacteria counts in areas without onsite wastewater treatment facilities. Councilmember Kearsley asked if there was a correlation with storm events. Mr. Douglas stated that the testing was not that specific.

Councilmember Jennings asked how the TMDL requirements could be met. Mr. Douglas stated that the TMDL for nitrogen had not yet been set and that staff hoped that it could work with the Regional Water Quality Control Board to set the correct timeline. City Manager Lichtig stated it was also necessary to establish the correct standard.

Councilmember Kearsley discussed the issue of nitrogen and the Lagoon. Mr. Douglas stated it was important to look at the modeling done by the U.S. EPA’s consultant on their TMDL. Councilmember Kearsley asked if it was feasible to de-nitrify the existing groundwater with large systems continually running. Mr. Douglas stated it was not practical because the groundwater flow system was so slow that it would require so many systems for collection.

Councilmember Jennings asked about comments received. Mr. Douglas indicated that compliments were received on the methodology. He stated that Heal the Bay had provided compliments on the data collection. He encouraged people to review the information and ask questions. Councilmember Jennings asked when the suggested changes to the Plumbing Code would come about. Environmental and Community Development Director/Building Official Peterson explained that tools

were in place in the Codes for management programs. He stated there would be necessary changes to the Code, but the basic framework already existed.

Mayor Barovsky thanked Mr. Douglas for his work.

MOTION Councilmember Jennings moved and Councilmember Kearsley seconded a motion to receive and file the “Draft Final Report – Risk Assessment of Decentralized Wastewater Treatment Systems in High Priority Areas in the City of Malibu”. The motion carried 4-0, Councilmember Conley Ulich absent.

ITEM 6. NEW BUSINESS

None.

ITEM 7. COUNCIL ITEMS

- A. Approval of Slate of Appointees for the 2004-05 Youth Commission
Staff recommendation: Approve the slate of candidates for appointment to the Harry Barovsky Memorial Youth Commission for the terms indicated.

Parks and Recreation Director Adams presented the staff report.

In response to Mayor Barovsky, Parks and Recreation Director Adams explained that initially, the Council conducted interviews of the applicants, then applications were reviewed by the Parks and Recreation Subcommittee, and now staff was recommending the appointments. Mayor Barovsky stated that the Commission was established to address governmental issues related to the City’s youth. She stated that she would accept the staff recommendation. She requested a meeting with Parks and Recreation Director Adams to discuss the selection and purpose of the committee.

MOTION Councilmember Jennings moved and Councilmember Kearsley seconded a motion to approve the slate of candidates for appointment to the Harry Barovsky Memorial Youth Commission for the terms indicated. The motion carried 4-0, Councilmember Conley Ulich absent.

- B. Consideration of Presentation of City Tile (Councilmember Kearsley)\
Staff recommendation: Consider whether or not to present a City tile to the U.S. Army 101st Airborne Division, Company A, 2nd Battalion, 327th Infantry, 1st Brigade.

Councilmember Kearsley presented the report.

MOTION Mayor Barovsky moved and Councilmember Kearsley seconded a motion to present a City tile to the U.S. Army 101st Airborne Division, Company A, 2nd Battalion, 327th Infantry, 1st Brigade. The motion carried 4-0, Councilmember Conley Ulich absent.

- C. Santa Monica College Potential Bond Measure (Mayor Barovsky)
Requested Action: Request of Mayor Barovsky to: 1) direct City Manager to invite representatives from Santa Monica College to make a presentation on the potential bond measure at the City Council's June 28, 2004 meeting; and 2) direct the City Attorney to work with the Santa Monica College bond counsel to outline a method (including a possible joint powers authority) to govern how bond proceeds will get spent in Malibu to achieve both agencies goals and objectives.

Mayor Barovsky presented the report.

City Attorney Hogin explained that the College District was discussing the possibility of a bond measure.

MOTION Mayor Barovsky moved and Mayor Pro Tem Stern seconded a motion to: 1) direct City Manager to invite representatives from Santa Monica College to make a presentation on the potential bond measure at the City Council's June 28, 2004 meeting; and 2) direct the City Attorney to work with the Santa Monica College bond counsel to outline a method (including a possible joint powers authority) to govern how bond proceeds will get spent in Malibu to achieve both agencies goals and objectives. The motion carried 4-0, Councilmember Conley Ulich absent.

ADJOURN At 9:51 p.m., Councilmember Kearsley moved and Councilmember Stern seconded a motion to adjourn. The motion carried 4-0, Councilmember Conley Ulich absent.

Approved and adopted by the City Council of
the City of Malibu on June 14, 2004.

SHARON BAROVSKY, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)